

PT 01-52

Tax Type: Property Tax

Issue: Religious Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS**

**VINEYARD CHRISTIAN
FELLOWSHIP OF URBANA,
APPLICANT**

v.

**ILLINOIS DEPARTMENT
OF REVENUE**

**No. 01-PT-0023
(00-10-0046)**

P.I.N.S: 30-21-08-101-002

RECOMMENDATION FOR DISPOSITION

APPEARANCES: Mr. Richard C. Kirby of Erwin, Martinkus & Cole, Ltd. on behalf of the Vineyard Christian Fellowship of Urbana (hereinafter the “applicant”); Mr. James Day, Special Assistant Attorney General, on behalf of the Illinois Department Of Revenue.

SYNOPSIS: This proceeding presents the limited issue of whether any part of real estate identified by Champaign County Parcel Index Number 30-21-08-101-002 (hereinafter referred to as the “subject property”) was: (a) “used exclusively for religious purposes,” as required by Section 15-40 of the Property Tax Code (35 ILCS 200/1-1, *et seq.*) on or after July 1, 2000; and/or (b) “used as part of a use for which an exemption is provided by this Code,” as required by Section 15-125 of the Code on or after July 1, 2000. The underlying controversy arises as follows:

Applicant filed an Application for Property Tax Exemption with the Champaign County Board of Review (hereinafter the “Board”) on May 1, 2000. The Board reviewed the application and recommended to the Illinois Department of Revenue (hereinafter the “Department”) that the requested exemption be denied because the “property is being leased and producing income.” (Dept. Group Ex. No. 1, Doc. A). The Department then accepted this recommendation by means of a determination dated March 1, 2001. Said determination found that the subject property “is not in exempt use.” (Dept. Group Ex. No. 1, Doc. B). Applicant filed an appeal to this denial and later presented evidence at a formal evidentiary hearing. Following a careful review of the record made at that hearing, I recommend that the Department’s initial determination in this matter be modified to reflect that only the unimproved portion of the subject property be exempt from real estate taxation for 50% of the 2000 assessment year.

FINDINGS OF FACT:

1. The Department’s jurisdiction over this matter and its position herein are established by Dept. Group Ex. No. 1.
2. The Department’s position herein is that the subject property is not in exempt use. Dept. Group Ex. No. 1, Doc. B.
3. The subject property is located at 1402 Lincoln Ave, Urbana, IL situated on a larger Christian church campus owned and operated by applicant. This campus consists of the following properties:

Parcel 30-21-08-101-002-Subject Property	Unrelated Properties
Parcel 30-21-08-101-003 31-21-08-102-008 Tax Exempt Tax Pursuant to Determination	Parcels 30-21-08-102-004 & Tax Exempt Tax Pursuant to

Dept. Group Ex. No. 1; Applicant Ex. No. 1; Tr. pp. 12-13, 16, 20.

4. Applicant obtained ownership of the subject property on May 1, 2000. Dept. Group Ex. No. 1, Doc. A.
5. The subject property is improved with a 1 story house¹ that was being rented to a tenant as of the purchase date. Applicant continued with this rental arrangement until June 30, 2000. For this reason, applicant concedes that the entire subject property was not in exempt use prior to July 1, 2000. Tr. pp. 13-14.
6. Applicant was experiencing a parking shortage as of July 1, 2000 and began using the unimproved portion of the subject property for overflow parking as of that date. It continued with this use throughout the balance of 2000. Tr. pp. 15-16.
7. Applicant also used the unimproved portion of the subject property as recreational space for its youth group activities after July 1, 2000. Tr. p. 16.
8. Applicant permitted a part time employee to live rent-free in the 1-story house from October of 2000 until it demolished this improvement in April of 2001. Tr. p. 15.

CONCLUSIONS OF LAW:

An examination of the record establishes that this applicant has demonstrated by the presentation of testimony or through exhibits or argument, evidence sufficient to warrant exempting part, but not all, of the subject property from real estate taxes for 50% of the 2000 assessment year under Sections 15-40 and 15-125 of the Property Tax Code, 35 ILCS 200/1-1, *et seq.* Accordingly, under the reasoning given below: (1) that portion

¹. Neither the Application (Dept. Group Ex. No. 1) nor any other evidence of record establishes the square footage of this house.

of the Department's initial determination pertaining to the improved portion of the subject property should be affirmed; but, (2) that portion of the Department's determination concerning the unimproved portion thereof should be reversed. In support thereof, I make the following conclusions:

Article IX, Section 6 of the Illinois Constitution of 1970 provides as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

Pursuant to Constitutional authority, the General Assembly enacted Sections 15-40 and 15-125 of the Property Tax Code, 35 **ILCS** 200/1-1 *et seq.*, (hereinafter the "Code"), wherein the following are exempted from real estate taxation:

All property used exclusively² for religious purposes,³ or used exclusively for school and religious purposes, or for orphanages and not leased or otherwise used with a view to a profit ...[.]

35 **ILCS** 200/15-40.

Parking areas, not leased or used for profit, when used as part of a use for which an exemption is provided by this Code and owned by any school district, non-profit hospital, school, or religious or charitable institutions which meets the qualifications for exemption, are exempt.

². The word "exclusively" when used in Section 200/15-40 and other property tax exemption statutes means the "the primary purpose for which property is used and not any secondary or incidental purpose." Pontiac Lodge No. 294, A.F. and A.M. v. Department of Revenue, 243 Ill. App.3d 186 (4th Dist. 1993).

³. As applied to the uses of property, a religious purpose means "a use of such property by a religious society or persons as a stated place for public worship, Sunday schools and religious instruction." People ex rel. McCullough v. Deutsche Evangelisch Lutherisch Jehova Gemeinde Ungeanderter Augsburgischer Confession, 249 Ill. 132, 136-137 (1911).

35 ILCS 200/15-125.

Sections 15-40 and 125, like all statutes exempting real estate from taxation, are to be strictly construed so that all factual and legal inferences favor taxation. People ex rel. Nordland v. Home for the Aged, 40 Ill.2d 91 (1968); Gas Research Institute v. Department of Revenue, 154 Ill. App.3d 430 (1st Dist. 1987). Consequently, any doubts or debatable questions as to whether property falls within a given statutory exemption provision must be resolved in favor of taxation. *Id.*

Here, applicant concedes that the entire subject property was “leased or otherwise used with a view to profit” in violation of Sections 15-40 and 125 prior to July 1, 2000. Therefore, the limited issue for decision herein is whether any part of the subject property was used for exempt purposes during that 50% of the 2000 assessment year which took place on or after that date.

With respect to that inquiry, it is first noted that where real estate is used for multiple purposes, and can be divided according to specifically identifiable areas of exempt and non-exempt use, it is proper to exempt those parts that are in actual, exempt use and subject the remainder to taxation. Illinois Institute of Technology v. Skinner, 49 Ill. 2d 59, 64 (1971). Here, applicant used the improved and unimproved portions of the subject property for distinct purposes. It used the former to house an employee while it used the latter for church-related overflow parking and recreational space for its youth group.

Concerning the former, homes occupied by residential employees cannot be exempted from real estate taxation absent appropriate proof that either: (1) the residential

employee (a) performs an exempt function, such as educational or religious duties in the residence, and; (b) is required by those same exempt duties to live in the residence; or, (2) the residential employee performs his/her duties in furtherance of the institution's exempt purpose in the residential facility. McKenzie v. Johnson, 98 Ill.2d 89, 98 (1983); Benedictine Sisters of the Sacred Heart v. Department of Revenue, 155 Ill. App.3d 325 (2nd Dist. 1987); Lutheran Child and Family Services of Illinois v. Department of Revenue, 160 Ill. App.3d 420 (2nd Dist. 1987); Cantigny Trust v. Department of Revenue, 171 Ill. App. 3d 1082 (2nd Dist. 1988); Girl Scouts of DuPage County Council, inc. v. Department of Revenue, 189 Ill. App.3d 858 (1989).

The record made at hearing contains very little evidence pertaining to the employee beyond that applicant: (1) employed him on a part time basis; and, (2) allowed him to stay in the improved portion rent free as part of one of its programs to promote recovery from substance abuse. (Tr. p. 16) Such a paucity of information creates evidentiary deficiencies with respect to the precise nature of this individual's job duties and the exact terms and conditions of his employment. Due to these deficiencies, applicant, which bears the burden of proof as to all elements of its exemption claim (People ex rel. Nordland v. Home for the Aged, 40 Ill.2d 91 (1968)), has failed to prove that the improved portion of the subject property satisfies the very specific criteria for exempt use articulated above. Therefore, that portion of the Department's initial determination which pertains to the improved portion should be affirmed.

The portion of the Department's determination that concerns the unimproved portion should, however, be reversed. Applicant used this portion of the subject property for church-related overflow parking and recreational space for its youth group. Both of

these uses qualify as exempt because they were either: (1) “in connection with” another specifically identifiable exempt use, as required by Section 15-125 (Northwestern Memorial Foundation v. Johnson, 141 Ill. App.3d 309 (1st Dist. 1986)); or, (2) “reasonably necessary” to facilitate other exempt uses taking place on the remainder of applicant’s church campus. (*Accord*, Evangelical Hospitals Corporation v. Department of Revenue, 233 Ill. App.3d 225 (2nd Dist. 1991)). Therefore, I recommend that the unimproved portion of the subject property be exempt from real estate taxes for 50% of the 2000 assessment year.

Based on the foregoing, I conclude that applicant has failed to prove that the improved portion of the subject property was used for exempt purposes during the period in question. However, I also conclude that applicant has proven that the unimproved portion of said property was in exempt use throughout that period. Therefore, the Department’s initial determination in this matter should be modified to reflect that only the unimproved portion of the subject property be exempt from real estate taxes for 50% of the 2000 assessment year.

WHEREFORE, for all the aforementioned reasons, it is my recommendation that:

- A. The improved portion of real estate identified by Champaign County Parcel Index Number 30-21-08-101-002 not be exempt from real estate taxation for 50% of the 2000 assessment year under Sections 15-40 and 15-125 of the Property Tax Code, 35 **ILCS** 200/1-1, *et seq*; but,
- B. The unimproved portion of real estate identified by Champaign County Parcel Index Number 30-21-08-101-002 be exempt from real estate

taxation for 50% of the 2000 assessment year under Sections 15-40 and 15-125 of the Property Tax Code, 35 **ILCS** 200/1-1, *et seq.*

August 14, 2001
Date

Alan I. Marcus
Administrative Law Judge